

OFFICE OF THE ATTORNEY GENERAL



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OCT 29 1985

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Honorable Frank McGill
Judge of Probate, Covington County
P. O. Drawer 789
Andalusia, AL 36420

Filing Tax -- Deed Tax -- Deeds
-- Judges of Probate.

Timber deed given for a nominal
consideration to perfect title is
not subject to deed privilege tax
levied by §40-22-1, Code of
Alabama 1975.

Dear Judge McGill:

Reference is made to your letter addressed to Honorable Charles A. Graddick, Attorney General of Alabama, in which you request an opinion from this office as to whether or not deed tax is due upon recordation of an instrument entitled "Timber Deed".

According to supplemental information furnished to this office upon request, the U.S. Treasury Department, Internal Revenue Service, on March 29, 1966 ruled that the original timber contract between Timprop, Inc., Union Bag-Camp Paper Corporation and Manufacturers Hanover Trust Company as trustee, in substance, set up a financing arrangement whereby Union Camp would be treated as having purchased the timber. The financing for the project would be provided through Timprop which would serve as an intervening mortgagee during the term of the Timber Contract with title to the forest lands and the Timber Contract serving as security for the payment of the notes issued by Timprop. Union Camp would still be the equitable owner of the timber during the entire term of the Timber Contract.

The instrument now under consideration, entitled "Timber Deed", merely affirms the terms of the original Timber Contract and places beneficial title in Union Camp which owned the fee all along. Under these circumstances, the Timber Deed here

under discussion falls clearly within the exception from deed tax which reads as follows:

except . . . deeds or instruments executed
for a nominal consideration for the purpose
of perfecting the title to real estate.

It is therefore my opinion that you should not collect deed tax upon the recordation of the instrument entitled "Timber Deed".

Yours very truly,

CHARLES A. GRADDICK
Attorney General

By-

B. Frank Loeb
B. FRANK LOEB
Assistant Attorney General

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